

REMARKS

In the office action of March 30, 2006, Examiner rejected Claim 30 under 35 USC § 112, first paragraph. Examiner also rejected Claim 32 under 35 USC § 112, second paragraph.

Examiner also rejected Claims 1, 3-6, 29 and 31 under 35 USC § 103(a) as being unpatentable over U.S. Patent 3,198,377 (issued Aug. 3, 1965; hereinafter “Buckley”). Examiner also rejected Claims 13, 17-19 and 23 under 35 USC § 103(a) as being unpatentable over U.S. Patent 1,602,391 (issued Oct. 12, 1924; hereinafter “Creaver”).

Examiner also rejected Claims 7, 8 and 20-22 under 35 USC § 103(a) as being unpatentable over Buckley and Creaver, and in further view of U.S. Patent 3,225,950 (issued Dec. 28, 1965; hereinafter “Fulcher”). Please note that Examiner referenced Fulcher as ‘350. Applicant believes this to be a typographical error and that the proper reference should have been ‘950.

Examiner also rejected Claims 24 and 26 under 35 USC § 103(a) as being unpatentable over Creaver and further in view of US Patent 5,758,790 (issued June 2, 1998; hereinafter “Ewing, Jr.”). Examiner also rejected Claim 27 under 35 USC § 103(a) as being unpatentable over Creaver and Ewing, Jr. and further in view of US Patent 3,308,997 (issued March 14, 1967; hereinafter “Kelly”). Examiner also rejected Claim 28 under 35 USC § 103(a) as being unpatentable over Buckley and further in view of US Patent 5,423,452 (issued June 13, 1995; hereinafter “Tardif”).

Examiner objected to Claims 9-12 and 14-16 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Examiner also stated that Claim 32 would be allowable if rewritten or amended to overcome the rejection under 35 USC § 112, second paragraph.

Applicant notes that Claim 25 was listed as rejected in the Office Action Summary, but no mention of a rejection or objection was made in the body of the Office Action. Therefore, Applicant respectfully requests that the disposition of Claim 25 be clarified so that Applicant may respond accordingly.

Applicant respectfully traverses the rejections and submits the following arguments.

Rejection of Claim 32 under 35 U.S.C. §112, second Paragraph

In Claim 32, Applicant recites "a single side wall" wherein "a side wall" had been previously recited.

Applicant has amended Claim 32 by changing "a single side wall" to "a single face of said side wall having four faces." In Claim 32, the side wall was previously recited as having four faces. Therefore, "a single face of said side wall having four faces" in Claim 32 as amended has proper antecedent basis. In light of this amendment, Applicant respectfully requests that the 35 U.S.C. §112, second paragraph rejection be withdrawn.

Rejection of Claims 1, 3-6, 29 and 31 under 35 U.S.C. §103(a) over Buckley

Applicant respectfully disagrees with Examiner's characterization of the cavity of Buckley as a recess in a bottom wall. Firstly, the feature 30 of Buckley in which a hand is shown inserted (Buckley, Figure 6) is consistently referred to in Buckley as a cavity, and the feature 34 of Buckley in which a thumb is inserted is referred to as a recess 32. Buckley, column 1, lines 55 and 66. In this regard, Buckley uses the terms "cavity" and "recess" correctly and in a manner consistent with Applicant's use of the term "recess." A "recess" is generally a shallow indentation whereas a "cavity" typically connotes a deeper feature, particularly in reference to the area of the opening of the cavity. As can be seen in Applicant's Figure 7, the recess 40 is relatively shallow compared to its total opening area. This is a correct and typical use of the term recess. Therefore, Applicant respectfully asserts that Buckley does not contain a recess on a bottom wall and therefore a 35 U.S.C. §103(a) rejection is inappropriate.

Secondly, Applicant asserts that the cavity 30 of Buckley is not a part of a bottom wall. As can be seen in side elevation Figures 1 and 8 of Buckley, the cavities 30 and 44 clearly are contained within the sides of the bowls. The bottom 24 is shown without a recess. The layer of material between where a user's fingers would go and the interior of the bowl is also shown without a recess. In this regard no bottom wall is shown having a recess in Buckley. Applicant asserts that the bottom wall of Buckley should be considered the barrier between the bowl area and the user's fingers or alternatively the bottom 24. Applicant asserts that the portion of Buckley that contains the bottom 24, the barrier between the bowl area and the user's fingers, the structural elements in between the bottom and the barrier and the cavity should not altogether be

considered a bottom wall.

Finally, applicant strongly disagrees with Examiner's characterization of the invention of Buckley as a container. The term "container" refers to a structure with a contained, or closed, inner volume and not to a device such as an opened-topped bowl as in Buckley. As evidence of this usage of the term "container," Applicant points to how the term is used in each reference used by Examiner in the current Office Action. Buckley, which is titled, "Mixing Bowl with Handle," does not use the word "container" in the issued patent. Likewise, Tardif, which is titled, "Mixing Bowl," does not use the word "container" at any point throughout the issued patent. This is because bowls are not containers. In contrast, the first sentence of Ewing, Jr. states, "This invention relates to a bottle shaped container...." Ewing, Jr., column 1, line 9. The first sentence of Fulcher states, "The present invention relates to a novel and useful plastic container." Fulcher, column 1, lines 9-10. The first sentence of Kelly states, "This invention relates in general to plastic containers...." Kelly, column 1, line 9. And finally, the first sentence of Creaver states, "This invention relates to containers...." Creaver, column 1, line 1. It is clear from customary use of the term "container" and from every single reference cited by Examiner in the current Office Action, that "container" refers to a structure with a contained or closed volume. Therefore applicant respectfully asserts that the use of a bowl, such as Buckley, to provide the sole basis for a 35 U.S.C. §103(a) rejection is inappropriate and Claim 1 should be allowed.

Accordingly, since Claims 3-12, 25 and 28-31 are dependent on Claim 1, these claims should also be allowed.

Rejection of Claims 13, 17-19 and 23 under 35 U.S.C. §103(a) over Creaver

Applicant's original Claim 13 specifically states that the bottom and side walls are "configured to allow a user to grasp at each of the gripping portion and at least a portion of the bottom wall with a first hand to allow the user to pour liquid out of the container while holding one of the bottom corners of the container." Creaver does not teach or suggest at least two aspects of the quoted passage. First, Creaver does not teach a configuration where the user grasps "at least a portion of the bottom wall." Second, Creaver does not teach the holding of "one of the bottom corners of the container."

In regards to the first aspect, there is no mention in the text of Creaver of any gripping or

contacting of the bottom wall. In multiple locations Creaver discusses fingers gripping one set of ribs and a thumb contacting another set of ribs where the ribs are located on opposing sides of the container. See for example, Creaver, page 1, lines 79-84. Furthermore, from the figures of Creaver, it is clear that no portion of the user's hand is gripping the bottom wall. Figure 2 clearly shows the fingers interfacing with the sides of the bottle in a manner which precludes any part of the hand from interfacing with the bottom wall of the container. It is important to note that an object of Creaver "is to provide means for preventing slippage of the bottle from the hand, by providing specially designed finger grips...." Creaver, lines 16-19. If an object of Creaver was to prevent slippage from the hand and Creaver used an interface between the palm of the hand and the bottle to achieve this objective, surely this aspect would be mentioned in the text of the patent. However, the interface between the palm of the hand and the bottle to prevent slippage is not mentioned in Creaver because such a configuration was never contemplated in Creaver. Creaver relies solely on the interface of the fingers and thumbs with ribs in the sides of the bottle to prevent slippage. Therefore, Creaver does not disclose a configuration that allows a user to grasp at least a portion of the bottom wall, and therefore a 35 U.S.C. §103(a) rejection based on Creaver is inappropriate and Claim 13 should allowed.

In regards to the second aspect, there is no mention in Creaver of the corner of the bottle resting in the palm of the hand of the user. As stated above, in multiple locations Creaver discusses fingers gripping one set of ribs and a thumb contacting another set of ribs where the ribs are located on opposing sides of the container. There is absolutely no textual basis found in Creaver for the assertion that Creaver discloses a user holding one of the bottom corners of the container or the bottom corner of the container resting in the palm of a user's hand. Applicant respectfully disagrees with Examiner's assertion that "Figure 1 shows a hand in broken lines with the corner resting in the palm...." Office Action, page 3. In addition to the fact that there is no textual reference to a corner of the container resting in the palm of a user's hand in Creaver, Applicant respectfully asserts that examiner's interpretation of Figure 1 is ergonomically implausible and in direct contrast to Figure 2.

Figure 2 of Creaver "is a transverse sectional view on line 2-2 of Figure 1." Creaver, page 1, lines 42-43. Therefore, Figures 1 and 2 represent the same physical arrangement of bottle and hand but from two different perspectives. Figure 2 clearly shows a thumb and finger interfacing with the sides of the bottle in a pinch grip arrangement. This type of handling is

wholly inconsistent with the idea that somehow a corner of the bottle is resting in the palm of the user's hand. The only reasonable interpretation of the figures of Creaver is that the thumb and forefingers are in contact with the bottle and that the palm of the hand is offset from the bottle and not in contact with the bottle. This interpretation would also follow logically from the text of Creaver, which does not disclose the palm of the hand being in contact with the bottle to prevent slippage, but only discloses the thumb and fingers of the user's hands in contact with the ribs on the sides of the container.

Ergonomically, the hand in broken lines of Creaver Figure 1 can only be interpreted as pinching the bottle between the four fingers and thumb of a right hand of a user. The index finger of the hand is fully extended and the smallest finger of the hand is only bent at a slight angle. This strongly implies that the palm of the hand is offset and distant from the container. For the container to be in contact with the palm of the hand of Figure 1, the smallest finger would have to be bent at a substantial angle. This analysis, along with the clear indication from Figure 2 that the palm of the hand is not in contact with the container, and the fact that no contact between the palm of the hand and the container is mentioned in the text of Creaver, leads to the only reasonable interpretation of Figure 1 to be that the palm of the hand shown in broken lines is not in contact with the container.

Therefore, Creaver does not disclose a configuration wherein the corner of the container rests in the palm of a hand as in Applicant's Claim 13. As stated above, Creaver does not disclose a configuration that allows a user to grasp at least a portion of the bottom wall as in Applicant's Claim 13. Consequently a 35 U.S.C. §103(a) rejection based on Creaver is inappropriate and Claim 13 should be allowed since Creaver does not disclose or suggest these aspects of Applicant's Claim 13.

Accordingly, since Claims 17-19 and 23 are dependent on Claim 13, these claims should also be allowed.

Remaining Rejections of Claims 7, 8, 20-22, 24, and 26- 28 under 35 U.S.C. §103(a)

Claims 7, 8, 20-22, 24, and 26-28 are each dependent from either independent Claim 1 or independent Claim 13. As Applicant has demonstrated above, Claims 1 and 13 are in condition for allowance, and therefore Claims 7, 8, 20-22, 24, and 26-28, as dependent claims on allowable independent claims, should also be allowed.

Rejection of Claim 30 under 35 U.S.C. §112, first paragraph

Applicant has amended Claim 30 to specifically claim a container where the groove disclosed in Claim 1 is formed in a single one of the faces. This language is similar to the language of objected-to Claim 9. This amendment removes the basis for the 35 U.S.C. §112, first paragraph rejection and places Claim 30 in condition for allowance.

Conclusion

Based upon the foregoing, Applicant believes that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, Examiner is invited to contact the undersigned.

Respectfully submitted,

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